

The JS-44 cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, e.g., Federal Rules of Court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Federal Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

1. (a) PLAINTIFFS

RICHARD BROOKS

(b) County of Residence of First Listed Plaintiff **NEW CASTLE COUNTY**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

SIDNEY L. GOLD, ESQUIRE #21374
LAW OFFICES OF SIDNEY L. GOLD & ASSOC. P.C.
1835 MARKET ST., STE 515,
PHILA., PA 19103 TELEPHONE (215) 569-1999

DEFENDANTS

HOWARD HUGHES MEDICAL INSTITUTE, INC.

County of Residence of First Listed **PHILADELPHIA**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED,

Attorneys (If Known)

11. BASIS OF JURISDICTION (Place an "x" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

111. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "x" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ 1 DEF Incorporated or Principal Place of Business In This State ☐ 4 ☒ 4 DEF
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury- Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 395 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 H 1A (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS 1 (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS -Third Party 26 USC 7609	

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 (specify) Transferred from another district
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

ADA AND PHRA

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R. CP. 23 ☐ DEMANDS \$150,000 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) instructions):
IF ANY NONE

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

February 23, 2012

X

/S/ SIDNEY L. GOLD, ESQUIRE

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

FEB 23 2012

FOR THE EASTERN DISTRICT OF PENNSYLVANIA -DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: **2709 E. RIDING DRIVE, WILMINGTON, DELAWARE 19808**

Address of Defendant: **415 CURIE BOULEVARD, 405 CRB, PHILADELPHIA, PENNSYLVANIA 19104**

Place of Accident, Incident or Transaction: **415 CURIE BOULEVARD, 405 CRB, PHILADELPHIA, PENNSYLVANIA 19104**

(Use Reverse Side For Additional Space)

Does this case involve multidistrict litigation possibilities?

Yes ☐

No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐

No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐

No ☒

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐

No ☒

CIVIL: (Place X in ONE CATEGORY ONLY)

A. Federal Question Case &

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability -Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

SIDNEY L. GOLD, ESQUIRE

, counsel of record do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☒ Relief other than monetary damages is sought.

DATE: **February 23, 2012**

/s/ **SIDNEY L. GOLD, ESQUIRE**
Attorney-at-Law

SLG-21374

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: **February 23, 2012**

/s/ **SIDNEY L. GOLD, ESQUIRE**
Attorney-at-Law

SLG-21374

Attorney I.D.#

FEB 23 2012

IN THE- UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

RICHARD G. BROOKS, PLAINTIFF

CIVIL ACTION

v.
HOWARD HUGHES MEDICAL INSTITUTE, INC.,
DEFENDANT12 0955
NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. § 2241 through §2255. ()
- (b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (c) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (d) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (e) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

February 23, 2012

Date

/S/SIDNEY L. GOLD, ESQUIRE

Attorney-at-law

- /S/SIDNEY L. GOLD, ESQUIRE

Attorney for Plaintiff

MSG

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

1

RICHARD G. BROOKS, JR.,

CIVIL ACTION NO.:

Plaintiff,

12 0955

v.

HOWARD HUGHES MEDICAL
INSTITUTE, INC.,

JURY TRIAL DEMANDED

Defendant.

COMPLAINT AND JURY DEMAND

I. PRELIMINARY STATEMENT

FILED
FEB 23 2012
MICHAEL E. KUNZ, Clerk
By

1. This is an action for an award of damages, declaratory and injunctive relief, attorneys' fees and other relief on behalf of Plaintiff, Richard G. Brooks, Jr. ("Plaintiff Brooks"), a former employee of Defendant, Howard Hughes Medical Institute, Inc. ("Defendant"), who has been harmed by the Defendant's discriminatory actions, ultimately resulting in the termination of his employment.

2. This action is brought under the Americans with Disabilities Act ("ADA"), 42 U.S.C. §12101 et seq., and the Pennsylvania Human Relations Act ("PHRA"), 43 P.S. §951 et seq.

3

II. JURISDICTION AND VENUE

3. The original jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1331 and the claims are substantively based on the ADA. The supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1367, to consider Plaintiff Brooks' claims arising under the PHRA.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 as a substantial part of the events or omissions giving rise to Plaintiff Brooks' claims occurred in this judicial district.

5. All conditions precedent to the institution of this suit have been fulfilled. On November 28, 2011, a Notice of Right to Sue was issued by the United States Equal Employment Opportunity Commission ("EEOC"), and this action has been filed within ninety (90) days of receipt of said notice.

6. Plaintiff Brooks has satisfied all other jurisdictional prerequisites to the maintenance of this action.

III. PARTIES

7. Plaintiff, Richard G. Brooks, Jr. ("Plaintiff Brooks") is a forty-seven (47) year old citizen of the State of Delaware, residing therein at 2709 E. Riding Drive, Wilmington, Delaware 19808.

8. Defendant, Howard Hughes Medical Institute, Inc., is a non-profit corporation duly organized and existing under the State of Delaware, maintaining a place of business located at 415 Curie Boulevard, 405 CRB, Philadelphia, Pennsylvania 19104.

15. Shortly thereafter, Plaintiff Brooks informed the Defendant of his disability. At all times thereafter, the Defendant perceived Plaintiff Brooks as being disabled.

16. From in or about May of 2009 until in or about December of 2009, Plaintiff Brooks took a medical leave of absence from work and utilized Short Term Disability (“STD”) in order to undergo intensive chemotherapy treatments in connection with his disability.

17. At or around the end of December of 2009, Plaintiff Brooks was scheduled to have the remaining one half ($\frac{1}{2}$) of his thyroid removed. Said procedure was scheduled for in or about January of 2010.

18. In connection therewith, Laurie Cassell (“Cassell”), Manager of Administrative Services, insisted that Plaintiff Brooks go on Long Term Disability (“LTD”).

19. In or about February of 2010, Plaintiff Brooks’ Oncologist cleared him to return to work on a part-time basis.

20. In or about February of 2010, Plaintiff Brooks returned to work on a part-time basis, working three (3) days per week for four (4) hours per day. The remaining hours of the full-time work week, Complainant was compensated by way of LTD benefits.

21. In or about March of 2010, Complainant’s Oncologist cleared him to return to work for three (3) days per week for six (6) hours per day.

22. In or about March of 2010, Complainant returned to work on the aforesaid terms and continued to be compensated for the remaining hours of the full-time work week by way of LTD benefits.

23. In or about April of 2010, Complainant's Oncologist cleared him to return to work on a full-time basis.

24. In connection therewith, on or about April 5, 2010 Plaintiff Brooks returned to work full-time. On said date, Plaintiff Brooks requested to leave work one (1) hour early for a doctor's appointment in connection with his disability.

25. In response to Plaintiff Brooks' request for reasonable accommodation, Cassell stated, "I can't believe you have a doctor's appointment your first day back!"

26. At or about the beginning of June of 2010, Plaintiff Brooks suffered thirteen (13) rib fractures as a result of his bones being brittle due to chemotherapy treatment for his disability. Said fractures required him to take a four (4) day medical leave of absence from work in June of 2010. Said medical leave of absence constituted a reasonable accommodation for his disability.

27. At all times relevant hereto, Plaintiff Brooks was able to perform the essential functions of his job with or without reasonable accommodation.

28. In support thereof, in or about June of 2010 Plaintiff Brooks attended a Tri-Regional Conference for the Defendant in Chicago, Illinois.

29. On or about June 24, 2010, Plaintiff Brooks was scheduled to undergo hernia surgery due to a complication from his disability.

30. In connection therewith, Plaintiff Brooks utilized a brief medical leave of absence in order to undergo the aforesaid surgery. Said medical leave of absence constituted a reasonable accommodation.

31. On or about July 6, 2010, Plaintiff Brooks returned to work.

32. On or about July 7, 2010, Plaintiff Brooks overheard Casell complaining about his various disability-related accommodations to Mary O'Donnell ("O'Donnell"), Human Resources Representative.

33. Immediately thereafter, Plaintiff Brooks attempted to contact one of the Defendant's Human Resources Representatives in order to report Casell's aforesaid discriminatory comments. Casell saw Plaintiff Brooks on the phone and ordered him to "get off the phone."

34. On or about July 20, 2010, the Defendant abruptly terminated Plaintiff Brooks' employment, allegedly for "ongoing performance issues."

35. Curiously, Plaintiff Brooks had not been put on a performance improvement plan prior to the termination of his employment per Respondent's policy, nor did he receive any negative feedback regarding his job performance until the date of his unlawful termination.

36. Plaintiff Brooks believes and avers that the Defendant's articulated reason for the termination of his employment was and is pure pretext, and that the Defendant actually terminated his employment based solely on his actual and/or perceived disability and/or record of impairment (Colon Cancer) and in retaliation for having requested reasonable accommodation in connection therewith.

COUNT I

**(ADA - Actual and/or Perceived Disability and/or Record of Impairment,
and Retaliation)**

Plaintiff Brooks vs. the Defendant

37. Plaintiff Brooks incorporates by reference paragraphs 1 through 36 of this Complaint as though fully set forth at length herein.

38. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Brooks to discrimination on the basis of his actual and/or perceived disability and/or record of impairment (Colon Cancer), and retaliating against him for requesting reasonable accommodation, constituted a violation of the ADA.

39. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADA, Plaintiff Brooks sustained permanent and irreparable harm, resulting in the loss of his employment, which caused him to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

40. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the ADA, Plaintiff Brooks suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

COUNT II

**(PHRA -Actual and/or Perceived Disability and/or Record of Impairment,
and Retaliation)**

Plaintiff Brooks vs. the Defendant

41. Plaintiff Brooks incorporates by reference paragraphs 1 through 40 of this

Complaint as though fully set forth at length herein.

42. The actions of the Defendant, through its agents, servants and employees, in subjecting Plaintiff Brooks to discrimination on the basis of his actual and/or perceived disability and/or record of impairment (Colon Cancer), and retaliating against him for requesting reasonable accommodation, constituted a violation of the PHRA.

43. As a direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Brooks sustained permanent and irreparable harm, resulting in the loss of his employment, which caused him to sustain a loss of earnings, plus the value of certain benefits, plus loss of future earning power, plus back pay, and front pay and interest due thereon.

44. As a further direct result of the aforesaid unlawful discriminatory employment practices engaged in by the Defendant in violation of the PHRA, Plaintiff Brooks suffered severe emotional distress, embarrassment, humiliation, and loss of self-esteem.

PRAYER FOR RELIEF

45. Plaintiff Brooks incorporates by reference paragraphs 1 through 44 of this Complaint as though fully set forth at length herein.

WHEREFORE, Plaintiff Brooks requests that this Court enter judgment in his favor and against the Defendant, and Order that:

- a. Defendant compensate Plaintiff Brooks for the wages and other benefits

and emoluments of employment lost, because of its unlawful conduct;

b. Defendant compensate Plaintiff Brooks with an award of front pay, if appropriate;

c. Defendant pay to Plaintiff Brooks punitive damages, liquidated damages, compensatory damages for future pecuniary losses, pain, suffering, inconvenience, mental anguish, loss of enjoyment of life and other nonpecuniary losses as allowable;

d. Defendant pay to Plaintiff Brooks, pre and post judgment interest, costs of suit and attorney and expert witness fees as allowed by law;

e. The Court award such other relief as is deemed just and proper.

JURY DEMAND

Plaintiff Brooks demands a trial by jury.

SIDNEY L. GOLD & ASSOC. P.C.

By:



/s/Sidney L. Gold, Esquire SG 1387

SIDNEY L. GOLD, ESQUIRE

I.D. No.: 21374

1835 Market Street - Suite 515

Philadelphia, PA 19103

(215) 569-1999

Attorneys for Plaintiff

DATED: February 23, 2012

VERIFICATION

I hereby verify that the statements contained in this **Complaint** are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of Title 18 Pa. C.S.A. §4904, relating to unsworn falsification to authorities.

DATE: 2-12-12



RICHARD G. BROOKS, JR.